

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SANDRA G. GRESHAM,

Plaintiff,

v.

PETRO STOPPING CENTERS, LP and
TCA PSC GP LLC,

Defendants.

3:09-CV-00034-RCJ-(VPC)

ORDER

Presently before the Court is Plaintiff's Objection to Magistrate Judge Cook's Order #29 (#33). Judge Cook granted Defendants' motion for sanctions against Plaintiff's counsel for improper conduct during Plaintiff's deposition. Judge Cook found that Plaintiff's counsel had violated Rule 30(c) of the Federal Rules of Civil Procedure and ordered Plaintiff's counsel to pay Defendants' counsel's attorney fees and costs for filing its motion for sanctions. Defendant filed a response to Plaintiff's objection. (#35). Plaintiff then filed a motion for leave to file a reply (#38).

The local rules do not authorize reply briefs to objections to magistrate rulings. LR IB 3-1(a); *26 Beverly Glen, LLC v. Wykoff Newberg Corp.*, No. 2:05-cv-862, 2007 WL 1560330, at *2 (D. Nev. May 24, 2007). Furthermore, a reply will not be particularly helpful to the Court in this case. Therefore, the Court denies Plaintiff's motion for leave to file a reply brief.

1 The Court may reconsider a magistrate judge's ruling "where it has been shown that
2 the magistrate judge's ruling is clearly erroneous nor contrary to law." LR IB 3-1(a). Judge
3 Cook's ruling was neither clearly erroneous or contrary to law. Plaintiff's attorney violated
4 Rule 30(c) by phrasing objections that suggest answers to the witness and instructing the
5 witness not to answer when unnecessary to preserve privilege. Rule 30(d)(2) authorizes
6 sanctions, including attorney's fees, for violations of Rule 30. Rule 37(a)(5) states that a
7 court may only award expenses and attorney's fees to a party moving to compel discovery
8 when the motion is granted or the evidence sought is disclosed. Rule 30(d)(3)(C) states
9 Rule 37(a)(5) applies to an award of expenses. But, Rule 30(d)(3)(C) only makes Rule
10 37(a)(5) applicable to expenses of motions to terminate or limit a deposition. Neither party
11 made a motion to terminate or limit the deposition. Rule 37(a)(5) does not restrict a court's
12 authority to award sanctions for misconduct at a deposition. Therefore, the Court overrules
13 Plaintiff's objection to Judge Cook's order.

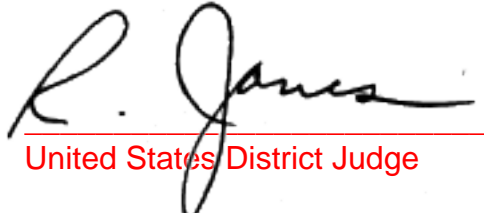
14 Also pending before the Court is Defendants' Motion for Attorney's Fees (#32).
15 Though titled as a motion for attorney's fees, this is in fact the statement of attorney's fees
16 that Judge Cook requested so that she may determine the amount of attorney's fees to
17 award. This is not a separate request for attorney's fees. Therefore, this matter is referred
18 to Judge Cook so she may determine the appropriate amount of attorney's fees to award
19 as a sanction.

20 Accordingly, IT IS ORDERED that Plaintiff's Motion for Leave to File a Reply Brief
21 (#38) is DENIED.

22 IT IS FURTHER ORDERED that Plaintiff's Objection to Magistrate Judge Cook's
23 Order #29 (#33) is DENIED.

24 IT IS FURTHER ORDERED that Defendants' Motion for Attorney's Fees (#32) is
25 referred to Magistrate Judge Cook.

26 DATED: This 30th day of April, 2010.

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United States District Judge